STATE OF RHODE ISLAND
COMMISSIONER OF EDUCATION

STUDENT C. DOE, by his parent, Ms. Doe, *Petitioner*	:	
v.	:	RIDE NO. 21-010A
WARWICK PUBLIC SCHOOLS, *Respondent*	:	

INTERIM DECISION AND ORDER

Held: Petition for an interim protective order under R.I. Gen. Laws § 16-39-3.2 by parent and primary care-giver of eighteen-year-old autistic child challenging school district's requirement that the parent submit evidence of her own negative coronavirus test to the district every ten (10) days as a condition to her child's continued in-person attendance in his transition program while wearing only a face shield – in lieu of the face mask required of all other students attending school in-person during the coronavirus pandemic – was granted, temporarily, as school district failed to meet its burden of proving: (1) that the child's continued in-person attendance wearing only a face shield, as has been the case for six (6) months, was substantially likely to result in injury either to himself or to others, or (2) that it had done all that it reasonably could to reduce the risk that the child would cause injury if the status quo was maintained. Thus, in the absence of an adequate factual record, the Commissioner ordered the school district to continue to allow Doe to attend school in-person wearing only a face shield pending a report on the feasibility of implementing measures to safely maintain the status quo.

Date: March 5, 2021

On February 24, 2020, Ms. Doe petitioned the Commissioner on behalf of her son, C. Doe, and requested a hearing as well as an interim protective order under R.I. Gen. Laws § 16-39-3.2 to enable her son, an eighteen-year old autistic student enrolled in a transition program operated by the Warwick Public Schools ("Warwick"), to continue wearing a face shield without a face mask while attending the program in-person, even though Warwick requires all other students who are attending school in-person during the coronavirus pandemic to wear a face mask.

I. JURISDICTION, BURDEN OF PROOF AND THE REQUESTED INTERIM RELIEF

The Commissioner is required by statute "to interpret school law," R.I. Gen. Laws §§ 16-1-5(10) and 16-60-6(9)(viii), and to "require the observance" and "enforce the provisions of all laws relating to elementary and secondary education." *See* R.I. Gen. Laws §§ 16-1-5(9) and 16-60-6(9)(vii). In addition, R.I. Gen. Laws § 16-39-3.2 provides that the Commissioner may issue "any interim orders pending a hearing as may be needed to ensure that a child receives education in accordance with applicable state and federal laws and regulations during the pendency of the matter." *Id.*[1]

In exercising this jurisdiction, the Commissioner is bound by the federal *Individuals with Disabilities Education Act* (the "IDEA") and the implementing federal and state regulations, which make clear that the parent or guardian of a student who is allegedly being denied the right to the free, appropriate public education (a "FAPE") guaranteed under the IDEA can file a so-called "due process" complaint and have the matter heard by an impartial hearing officer who is

[1] The statute also provides that:

> [h]earings on these interim orders shall be conducted within five (5) working days of a request for relief and the decision shall be issued within five (5) working days of the completion of the hearing.

Id.

not an employee of, or in any way associated with, RIDE. *See Regulations Governing the Education of Children with Disabilities* ("Disability Regs."), 200 R.I. Admin. Code 20-30-6.8.1.L (incorporating 34 C.F.R. § 300.511).

Significantly, the IDEA's "stay put" provision mandates that a student is entitled to remain in the "then-current educational placement" until the dispute is resolved, unless one of the parties can show that "maintaining the current placement of the child is substantially likely to result in injury to the child or others." *See* 20 U.S.C. § 1415(j)-(k); Disability Regs., 200 R.I. Admin. Code 20-30-6.8.1.S (incorporating 34 CFR § 300.518); *see also Honig v. Doe*, 484 U.S. 305 (1988) and subsequent cases (discussed *infra* at 7 - 10).[2] Thus, if Doe meets his burden of proving that implementing the proposed change, i.e., requiring the regular submission of negative coronavirus tests, would constitute a change in his educational placement within the meaning of the IDEA, then the burden would shift to Warwick to prove that continuing to permit Doe to attend his program in-person while wearing only a face shield is substantially likely to result in injury either to himself or to others, and that it had done all that it reasonably could to reduce the risk.

Finally, it should be noted that the relief available under the interim protective order statute is without prejudice to any claim C. Doe may have under the IDEA or other applicable federal or state law. However, the filing of a due process complaint under the IDEA is not a condition precedent to relief under the statute. *See, e.g., Rosenfeld v. North Kingstown School*

[2] *See also A.D. ex rel. L.D. v. Hawaii Dept. of Educ*., 727 F.3d 911 (9th Cir. 2013) (IDEA's stay-put provision functions as an automatic preliminary injunction in IDEA cases by prohibiting changes to a student's educational placement until the legal dispute is resolved); *J.E. ex rel. J.E. v. Boyertown Area School Dist*., 452 Fed. Appx. 172, 2011 WL 5838479 (3d Cir. 2011) (Analysis of factors that court typically would consider in awarding injunctive relief was not required under IDEA stay-put provision); *but see also Wagner v. Board of Educ. of Montgomery County*, 335 F.3d 297 (4th Cir. 2003) (IDEA's "stay put' did not impose an affirmative obligation on the part of school board to propose alternative placements to autistic child's then–current educational placement when child's then–current placement was functionally unavailable).

Dept., 2013 WL 4042658 at *6 (D.R.I., April 30, 2013) ("Whether Petitioner went directly to federal court as she could have done or opted to use a state administrative procedure to procure the Interim Order, is a difference without distinction."); *see also* R.I. Gen. Laws §16-39-5 ("Nothing contained in this chapter shall be construed as to deprive any aggrieved party of any legal remedy.").

II. STUPULATED FACTS AND HEARING TESTIMONY

A. The Stipulated Facts

The parties stipulated to the following facts (at ¶¶ 1 – 7, *infra*) following the March 3, 2021 hearing before the undersigned hearing officer.

1. Doe is eighteen (18) years of age and is a child with a disability who is both autistic and non-verbal. He resides in the City of Warwick with Ms. Doe – his mother, guardian and primary care-giver (Ms. Doe) – and her husband, a sister and a stepsister.

2. Doe attends a transition program located at the site of the former Drum Rock Elementary School in Warwick, which he has been attending in-person four (4) days a week.

3. Since the beginning of the 2020-21 school year in September, Doe has been permitted to attend school in-person while wearing only a face shield, despite the Warwick policy mandating that all students, staff and employees wear a face mask at all times while on school grounds.[3]

4. Sometime in early February 2021, Warwick's attending physician, Steven Allen Feldman, M.D., informed Ms. Doe that the fact that Doe wears only a face shield without a face mask heightens the risk that Doe will either contract or spread the coronavirus.

[3] Although there was testimony affirming the existence of such a policy, the policy itself was not entered into evidence by Warwick.

5. At a meeting on February 17, 2021 involving Ms. Doe, Dr. Feldman, Doe's teacher and other school officials, Warwick informed Ms. Doe that since Doe was unwilling or unable to tolerate a coronavirus test, it had decided that Doe's family would have to be tested on a regular basis in order for Doe to be able to continue attending school in-person while wearing only a face shield. Ms. Doe was informed that if the family refused to get tested, Doe would be required to attend classes virtually.

5. Ms. Doe indicated that as Doe's primary care-giver, she *might* be willing to be tested regularly, but she said she saw no reason that the entire family needed to be tested, and the February 17 meeting ended with both parties agreeing to consider the matter.

6. Soon thereafter, Warwick informed Ms. Doe that if Doe wanted to continue to attend his program in-person while wearing only a face shield, she would have to agree to provide Warwick with her own negative coronavirus test results every ten (10) days.

7. Ms. Doe did not file a due process complaint under the IDEA prior to filing the instant petition with the Commissioner.

B. The March 3, 2021 Hearing Testimony

At the March 3, 2021 hearing before the undersigned Hearing Officer, Warwick presented the testimony of Dr. Feldman. Ms. Doe, who appeared *pro se*, did not present any witnesses, relying exclusively upon the Stipulated Facts, ¶¶ 1-7, *supra*, her cross examination of Dr. Feldman, and oral argument.

8. According to his curriculum vitae (Warwick Ex. 1), Dr. Feldman is, *inter alia*, board-certified in pediatric medicine (1969), general psychiatry (1984) and child and adolescent psychiatry (1985), and has been Warwick's Consulting Physician since 1983. In addition, he

testified to a breadth of experience that qualified him to provide an expert opinion as to the potential risks posed by Doe's continued attendance in school while wearing only a face shield.

9. Dr. Feldman opined that allowing Doe to continue wearing only a face shield in lieu of the face mask required of all other students without taking the additional precautionary measure of requiring that his primary caregiver provide evidence of her negative coronavirus test every ten (10) days would pose a risk of potential spread to others in the school with whom he might come in contact, and to Doe himself, which Dr. Feldman variously described as "significant," "very grave" and/or "great."

10. He testified that face shields do not catch smaller airborne particles that pass to and from one wearing only a shield, which does not fit as tightly as a mask, an opinion that he claimed was shared by both the Center for Disease Control (the "CDC") and the Rhode Island Department of Health ("RIDOH").

11. Upon cross examination, Dr. Feldman testified that he first learned that Doe was wearing only a face shield sometime in January of 2021, although, as noted, Doe had been doing so for months prior to that time.

12. In addition, Dr. Feldman admitted that he was not personally aware of what specific mitigation and/or accommodation measures, if any, had been attempted by Warwick, other than to suggest that Does' family, and then only Ms. Doe, test regularly and provide negative test results to the District.

13. At the same time, Dr. Feldman opined that he knew of no non-stigmatizing mitigation measure that would preclude the need for Doe's primary caregiver to provide regular evidence of her negative coronavirus test.

14. Finally, Ms. Doe claimed that the CDC recognized that not every child is able to wear a mask, and she noted that CDC guidance contemplated that exceptions would be made, and provided a link to the CDC's website, which was admitted into evidence.[4]

III. POSITIONS OF THE PARTIES

A. Warwick

Warwick relied upon the opinions of Dr. Feldman and emphasized that: (1) allowing Doe to continue wearing only a face shield without requiring that Ms. Doe provide evidence of her negative coronavirus test every ten (10) days would pose a serious risk of potential spread of the virus to others in the school with whom he might come in contact, as well as posing a serious risk to Doe himself; and (2) no known non-stigmatizing mitigation measure would preclude the need for Doe's primary caregiver to provide regular evidence of her negative coronavirus test.

B. Ms. Doe

Ms. Doe emphasized that Doe had been attending his program in-person for the past six (6) months wearing only a face shield without incident, and argued that despite the testimony of Dr. Feldman, Warwick had not provided persuasive evidence: (1) that Doe's in-person attendance in school wearing only a face shield posed a serious risk to either himself or to others with whom he may come into contact; or (2) that any useful purpose would be served by requiring that she submit negative coronavirus tests to the District every ten (10) days. In addition, her cross-examination of Dr. Feldman suggested that Warwick had failed to adequately explore alternate accommodations.

[4] *See CDC Guidance for Wearing Masks* at https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html#anchor_1604967124156.

IV. DECISION

A. Defining "Changes of Placement" under the IDEA's "Stay Put" Provision

As noted, the IDEA's "stay put" provision mandates that a student is entitled to remain in the "then-current educational placement" until the dispute is resolved, unless one of the parties can show that "maintaining the current placement of the child is substantially likely to result in injury to the child or others." *See supra* at 3, citing 20 U.S.C. § 1415(j)-(k) and Disability Regs., 200 R.I. Admin. Code 20-30-6.8.1.S. Thus, assuming for present purposes that Ms. Doe refuses to comply with the requirement that she provide evidence of her own negative coronavirus tests and that as a result, Doe is precluded from attending school in-person, the initial question is whether this would constitute a "change of placement" under the IDEA.

Although the IDEA does not define the term "then-current educational placement" or "change of placement," the terms have long carried "an expansive reading" to give effect to "the broad remedial purposes" of the IDEA. *See DeLeon v. Susquehanna Cmty. Sch. Dist*., 747 F.2d 149, 153 (3d Cir. 1984). Thus, the Ninth Circuit has concluded that:

> [b]ased on Supreme Court case law, Congress's express intent in the statute, the agency's implementing regulations, and sister circuits' decisions, we hold that 'educational placement' means the general educational program of the student. *More specifically we conclude that under the IDEA a change in educational placement relates to whether the student is moved from one type of program—i.e., regular class—to another type—i.e., home instruction.* A change in the educational placement can also result when there is a significant change in the student's program even if the student remains in the same setting. This determination is made in light of Congress's intent to prevent the singling out of disabled children and to 'mainstream' them with non-disabled children.

N.D. ex rel. parents acting as guardians ad litem v. Hawaii Dept. of Educ., 600 F.3d 1104, 1116, (9th Cir. 2010).[5]

[5] *See also A.W. ex rel. Wilson v. Fairfax County Sch. Bd.,* 372 F.3d 674, 683 (4th Cir.2004) (concluding that educational placement meant "the overall instructional setting in which the student receives his education."); *Hale v. Poplar-Bluffs R-I School District*, 280 F.3d 831, 834 (8th Cir. 2002) (affirming trial court's conclusion that the

Thus, despite the absence of testimony as to the effect that switching to virtual learning would have upon Doe, it will be assumed for present purposes that such a switch would constitute a "change of placement" under the IDEA's "stay put" provision. However, that does not end the inquiry since it must be determined whether an exception to the IDEA's "stay put" presumption is applicable under these unprecedented circumstances.

B. Exceptions for "Dangerous" Children

In declining to find an implied exception to the stay-put provision for allegedly "dangerous" children, the Court in *Honig v. Doe*, 484 U.S. 305 (1988), held that Congress intended "to strip schools of the unilateral authority they had traditionally employed to exclude disabled students, particularly emotionally disturbed students, from school." *Id*. at 323 (emphasis in original). The *Honig* Court made clear that a school seeking to remove a dangerously disruptive child from their current educational placement can overcome the automatic stay-put injunction only by obtaining the permission of the parents or the equitable sanction of a court. Acting alone, school officials are restricted to "'normal procedures for dealing with children who are endangering themselves or others,'" such as "study carrels, timeouts, detention, or the restriction of privileges." *Id.* at 325 (quoting Comment following 34 C.F.R. § 300.513 (1987)).

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school district's unilateral decision to change the location of student's schooling from home to school violated the stay-put provision, while noting that the trial court has "correctly identif[ied] the change-in-placement issue as fact intensive."); *Bd. of Educ. of Cmty. High Sch. Dist. No. 218, Cook County, Ill. v. Ill. State Bd. of Educ.,* 103 F.3d 545, 549 (7th Cir.1996) (applying a fact-driven approach and finding that expulsion was a change in educational placement but when fiscal concerns cause a student to be transferred, the focus is on the child's general educational program); *DeLeon v. Susquehanna Cmty. Sch. Dist.,* 747 F.2d 149, 153–54 (3d Cir.1984) (noting that the stay-put provision "does not entitle parents to the right to demand a hearing before a minor decision alters the school day of their children" and finding that a change in transportation services was not a change in placement); *White ex rel. White v. Ascension Parish Sch. Bd.,* 343 F.3d 373, 380 (5th Cir.2003) (placement does not mean a "particular school," and instead means "a setting"); *Tilton v. Jefferson County Bd. of Educ.,* 705 F.2d 800, 803–04 (6th Cir.1983) (distinguishing Concerned Parents in finding a change in placement when students were transferred from a year-round school to a 180–day program); *Concerned Parents & Citizens for Continuing Educ. at Malcolm X (PS 79) v. New York City Bd. of Educ.,* 629 F.2d 751 (2d Cir.1980) (suggesting that a transfer of a disabled child from a special class in a regular school to a special school would be a change in educational placement).

However, in *Honig*, the Court also emphasized that the IDEA "does not leave educators hamstrung," *id.* at 325, and outlined the standard for judicial intervention when a school is confronted with a dangerous student:

> school officials are entitled to seek injunctive relief under § 1415(e)(2) in appropriate cases. In any such action, § 1415(e)(3) effectively creates a presumption in favor of the child's current educational placement *which school officials can overcome only by showing that maintaining the child in his or her current placement is substantially likely to result in injury either to himself or herself, or to others.*

Id. at 328 (emphasis added).

Since *Honig*, courts have repeatedly held that the removal of dangerous children would be appropriate if the school district shows that maintaining the child in the current placement is substantially likely to result in injury to the child or others, and that the school district has done all that it reasonably can to reduce the risk that the child will cause that injury. The Eighth Circuit has noted that the *Honig* test "looks only to the objective likelihood of injury," and went on to explain that:

> a school district seeking to remove an assertedly dangerous disabled child from her current educational placement must show (1) that maintaining the child in that placement is substantially likely to result in injury either to himself or herself, or to others, and (2) *that the school district has done all that it reasonably can to reduce the risk that the child will cause injury*.

Light v Parkway C-2 Sch. Dist., 41 F.3d 1223, 1228 (8th Cir. 1994), cert. denied 515 U.S. 1132 (1995) (emphasis added).[6]

[6] *See, e.g., Alex G. ex rel. Dr. Steven G. v. Board of Trustees of Davis Joint Unified School Dist*., 387 F.Supp.2d 1119, 1127 (E.D. Calif. 2005) ("Although school officials do not have unilateral authority to exclude a disabled student based on violent and dangerous behavior, they can, in certain circumstances, seek judicial relief to change the educational placement of a dangerous child."); *Henry v. Sch. Admin. Unit No. 29, Keen School Dist*., 70 F.Supp.2d 52, 58 (D.N.H. 1999) (under IDEA, districts can seek removal of children through court process in appropriate circumstances); *Roslyn Union Free Sch. Dist. v. Geffrey W*., 740 N.Y.S.2d 451, 453 (App. Div. 2002) ("a school district is entitled to seek injunctive relief under IDEA authorizing it to extend a student's suspension upon a showing that maintaining the student in his current placement is substantially likely to result in injury to himself or to others"); *Gadsden City Bd. of Educ. v. B.P*., 3 F. Supp. 2d 1299, 1302 (N.D. Ala. 1998) ("The 'stay-put' provision creates a 'presumption in favor of the child's current educational placement which school officials

1. The "Danger" Posed

As noted, the unrebutted testimony of Dr. Feldman was that under the circumstances, allowing Doe to wear only a face shield in class would pose a risk of potential spread of the coronavirus to others in the school with whom he might come in contact, and to Doe himself, which he variously described as "significant," "very grave" and/or "great." In addition, Dr. Feldman claimed that the CDC does not recommend using face shields or goggles as a substitute for masks. *See* CDC *Guidance for Wearing Masks,* note 4, *supra.*[7] However, Dr. Feldman failed to mention that the CDC also recognizes that "wearing masks may not be possible in every situation or for some people," adding that "[t]hose who cannot wear a mask are urged to prioritize virtual engagement when possible." *See id.*[8] In addition, the Rhode Island Department of Elementary and Secondary Education, while recognizing that "[m]asks are required in the K-12 setting, even when students are in stable groups and socially distanced (greater than 6 feet apart)," it also has made the point that:

> [t]he Rhode Island Department of Health (RIDOH) understands and supports the exceptions to wearing masks for health considerations, as outlined in the CDC guidance. If a mask cannot be tolerated during vigorous exercise, additional physical distance is recommended (greater than 14 feet). Consult your local school plan for more information.

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can overcome only by showing that maintaining the child in his or her current placement is substantially likely to result in injury either to himself or herself, or to others.'").

[7] Citing William K. Lindsley, et al., *Efficacy of face masks, neck gaiters and face shields for reducing the expulsion of simulated cough-generated aerosols* (Aerosol Science and Technology Volume 55, 2021 - Issue 4); *see also Scientific Brief: Community Use of Cloth Masks to Control the Spread of SARS-CoV-2* (CDC, Updated Nov. 20, 2020).

[8] Thus, the CDC recognized that:

> [a]ppropriate and consistent use of masks may be challenging for some children and for people of any age with certain disabilities, including people who have high sensitivity to materials on their faces, difficulty understanding why wearing a mask is protective (such as those with an intellectual disability), or those who have problems controlling their behavior.

Id.

See Back To School Rhode Island.[9] Moreover, no evidence was presented to suggest that Doe's conduct, hygiene or other factors created an unusual risk to others.[10]

Yet, as the Rhode Island Supreme Court has made clear, expert testimony must be "'based on an adequate factual foundation.'" *See Paolino v. Ferreira*, 153 A.3d 505, 523 (R.I. 2017), citing *Kurczy v. St. Joseph Veterans Association, Inc*., 820 A.2d 929, 940 (R.I. 2003) (quoting *Rodriquez v. Kennedy*, 706 A.2d 922, 924 (R.I. 1998)).[11] And while the evidentiary principles governing the admission of expert testimony may not be as strictly applied in the administrative context, they nonetheless are not without relevance. *See* R.I. Gen. Laws 42-35-10(1) ("The rules of evidence as applied in civil cases in the superior courts of this state shall be followed; but, when necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible under those rules may be submitted . . ."). And here, Dr. Feldman's opinion as to the danger posed by Doe's face shield was wholly lacking in any factual foundation, and thus is of limited utility.

2. The Efforts to Reduce the Risk

In addition, Warwick presently absolutely no evidence explaining what, if anything, it did to attempt to accommodate Doe's inability to wear a mask. It again relied upon the wholly conclusory opinion of Dr. Feldman who summarily concluded that there were no non-stigmatizing mitigation measures that would preclude the need for Doe's primary caregiver to provide regular evidence of her negative coronavirus test, while at the same time admitting that

[9] https://www.back2schoolri.com/answering-your-questions/.
[10] And although not discussed, it should be noted that the fact that transmission rates among young children are lower than that among adults is not particularly relevant here since Doe is eighteen years of age, his transition program presumably involves older children, and as discussed by Dr. Feldman, any increased risk would be experienced by teachers and staff.
[11] *See also Franco v. Latina*, 916 A.2d 1251, 1258 (R.I. 2007) ("An expert may not give an opinion without describing the foundation on which the opinion rests.") (quoting *Gorham v. Public Building Authority of Providence*, 612 A.2d 708, 717 (R.I. 1992)).

he was not personally aware of what specific mitigation measures, if any, had been attempted by Warwick.

C. Conclusion

The evidentiary record here is extremely limited, the proffered expert opinions were entirely lacking in factual foundation, and notably, Warwick failed to include any testimony from Doe's teachers concerning the risk posed or alternate attempts at accommodation. Thus, Warwick has failed to meet its burden of proving either:

(1) that Doe's continued in-person attendance wearing only a face shield was "substantially likely to result in injury either to himself . . . or to others." *See Honig*, 484 U.S. at 328 (discussed *supra* at 9-10); or

(2) that it had "done all that it reasonably can to reduce the risk that [Doe] will cause injury" if he continues to wear only a face shield as he had done since September. *See Parkway C-2 Sch. Dist*., 41 F.3d at 1228 (discussed *supra* at 10).

In short, Warwick has failed to meet its burden of proof under the IDEA's "stay put" provision (discussed *supra* at 3 and 9-10). Nonetheless, the bare evidentiary record here does not justify the extraordinary step of overruling the unrefuted opinion of Dr. Feldman with respect to the gravity of the risk posed, even though the opinion was lacking an adequate factual foundation.

Thus, the Commissioner, with the assistance of the Education Operations Center, will appoint a qualified individual to meet with Warwick's Director of Special Services and Ms. Doe, explore the feasibility of implementing measures to enable Doe to safely attend school in-person with only a face shield, and then report their findings to the Commissioner by the close of business on Wednesday, March 31, 2021, after which an appropriate second interim order will be entered. In the meantime, Warwick shall continue to allow Doe to attend school in-person wearing only a face shield, as he has been doing for the last six (6) months.

Balancing the need to provide children with a FAPE against the heightened risk to others that may result from an accommodation made for the benefit of a disabled child is a difficult and complex task during the coronavirus epidemic, especially when dealing with the need to wear face masks, which have proven to be effective in limiting the spread of the virus. Generalizations are of limited utility as each case is unique. Thus, the result here is limited to the specific facts, and should not discourage other school districts from continuing to diligently work to enable children to safely attend school in-person, even those children who cannot tolerate wearing a face mask.

V. ORDER

For all the above reasons:

1. The Petition of C. Doe for an interim protective order under R.I. Gen. Laws § 16-39-3.2 to enable him to continue to attend the transition program operated by the Warwick Public Schools at the former Drum Rock Early Childhood Center while wearing only a face shield is granted, temporarily;

2. Warwick Public Schools shall cooperate fully with the individual to be appointed by the Commissioner to explore the feasibility of implementing measures to enable Doe to safely attend school in-person with only a face shield, and Ms. Doe shall be afforded the opportunity to participate in this effort;

3. Pending: (a) the submission of a feasibility report, which shall be provided to the Commissioner no later than the close of business on Wednesday, March 31, 2021; and (b) the entry of a second interim order in this matter, Warwick shall continue to allow Doe to attend school in-person wearing only a face shield, as he has been doing for the last six (6) months; and

4. This Order shall be without prejudice to any claims C. Doe may have under applicable federal or state law.

ANTHONY F. COTTONE, ESQ.
as Hearing Officer for the Commissioner

Date: March 5, 2021

ANGÉLICA INFANTE-GREEN,
Commissioner